



Rosemary Missisian, Esq.
Nevada Bar No. 8877
WEINBERG, WHEELER, HUDGINS,
GUNN AND DIAL, LLC
6385 S. Rainbow Blvd., Suite 400
Las Vegas, NV 89118
Telephone: (702) 938-3838
Facsimile: (702) 938-3864
rmissisian@wwhgd.com

Charles Lloyd Clay, Jr., Esq.
Admitted Pro Hac Vice
Chuck Clay & Associates
225 Peachtree Street, N.E., Suite 1700
Atlanta, GA 30303
Telephone: (404) 949-8118
chuck@chuckclay.com

Dan H. Ball, Esq.
Admitted Pro Hac Vice
Richard P. Cassetta, Esq.
Admitted Pro Hac Vice
Bryan Cave
211 North Broadway, Suite 3600
St. Louis, MO 63102
Telephone: 314 259-2823
Richard.cassetta@bryancave.com
dhball@bryancave.com
Attorneys for Defendant
EVENFLO COMPANY, INC.

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MATTHEW R. LINDNER, et al.,

Plaintiffs,

vs.

FORD MOTOR COMPANY, et al.,

Defendants.

Case No. : 2-10-CV-0051-LDG-LRL

**DEFENDANT EVENFLO COMPANY,
INC.'S MEMORANDUM IN RESPONSE
TO PLAINTIFF'S OBJECTIONS TO
EXHIBIT 512 [DOC. 180]**

MEMORANDUM OF POINTS AND AUTHORITIES

In connection with its objection to certain demonstrative exhibits and other exhibits listed on Evenflo's Final Trial Exhibit List filed on September 30, 2015 [Doc. No. 158], Plaintiff incorrectly characterizes the exhibits as an attempt by Evenflo to offer undisclosed expert opinions and has filed a motion to exclude use of the exhibits by Evenflo at trial. [See Plaintiff's Objections to Defendant's Trial Exhibits and Motion to Exclude Undisclosed Additional Expert Opinions, Doc. Nos. 175-185 ("Plaintiff's Objection")]. For the reasons set forth below, Plaintiff's motion must be denied. The motion also is premature in multiple respects.

Plaintiff's Objection [Doc. No. 175] was original improperly filed as it contained multiple separate arguments in one document. Plaintiff thereafter corrected his error by refiled the same motion with separate headings. Defendant has responded to all arguments in one motion – Defendant Evenflo Company, Inc.'s Memorandum in Opposition to Plaintiff's Objection to Exhibits and Motion to Exclude Undisclosed Expert Opinions [Doc. No. 189]. Defendant further breaks its arguments into separate arguments related only to a specific exhibit for ease of the Court in working through the documents and to set forth a clear docket.

Response to Plaintiff's Objection to**Photographs of the Subject Car Seat and Exemplar Car Seat (Exhibit 512)**

Plaintiff's car seat expert, Arthur Hoffman, although his testimony is confusing, apparently believes the position of the carry handle of the Embrace at the time of the accident was in the "stand" position, rather than the middle position. Exhibit 512 contains scene photographs of the subject car seat, which clearly show the position of the carry handle being in the middle position, and comparison photos of an exemplar Embrace car seat with the handle in that middle position.



1 These photographs are not “duplicative and unnecessary.” They will illustrate for the jury the
2 position of the carry handle. Dr. Van Arsdell can lay the proper foundation for the admissibility of
3 these photos at trial.
4

5 DATED this 5th Day of October, 2015.
6
7

8 /s/ Rosemary Missisian
9 Rosemary Missisian, Esq.
10 WEINBERG, WHEELER, HUDGINS,
11 GUNN AND DIAL, LLC
12 6385 S. Rainbow Blvd., Suite 400
13 Las Vegas, NV 89118
14 Telephone: (702) 938-3838
15 Facsimile: (702) 938-3864
16 rmissisian@wwhgd.com

17 Charles Lloyd Clay, Jr., Esq.
18 Chuck Clay & Associates
19 225 Peachtree Street, N.E., Suite 1700
20 Atlanta, GA 30303
21 Telephone: (404) 949-8118
22 chuck@chuckclay.com

23 Dan H. Ball, Esq.
24 Richard P. Cassetta, Esq.
25 Bryan Cave
26 211 North Broadway, Suite 3600
27 St. Louis, MO 63102
Telephone: 314 259-2823
Richard.cassetta@bryancave.com
dhball@bryancave.com

Attorneys for Defendant
EVENFLO COMPANY, INC.



CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of October, 2015, a true and correct copy of the foregoing **DEFENDANT EVENFLO COMPANY, INC.'S MEMORANDUM IN RESPONSE TO PLAINTIFF'S OBJECTIONS TO EXHIBIT 512 [DOC. 180]** was served by operation of the Court's electronic filing system on the following counsel of record:

Joseph L. Benson II, Esq. BENSON & BINGHAM 11441 Allerton Park Drive, Suite 100 Las Vegas, NV 89135 joe@bensonbingham.com <i>Attorneys for Plaintiffs</i>	Larry W. Lawrence, Jr., Esq. Lawrence Law Firm 3112 Windsor Road, Suite A-234 Austin, TX 78703 lawrencefirm@aol.com <i>Attorneys for Plaintiffs</i>
Ricardo A. Garcia, Esq. Jody R. Mask, Esq. Garcia Ochoa & Mask, LLP 820 S. Main St. McAllen, TX 78501 ric@gomlaw.com jody@gomlaw.com <i>Attorneys for Plaintiffs</i>	

/s/ Rosemary Missisian

Rosemary Missisian

WEINBERG, WHEELER, HUDGINS, GUNN & DIAL,
LLC

